



**Date:** May 28, 2008  
**From:** Peggy Munsell, Manager of Standards & Technical Resources  
**Subject:** Multi-employer contractor requirements

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This issue originated as an employer initiated email question dated February 21, 2008.

**Issue:** We are a general contractor for small to medium size commercial construction projects. We subcontract out 99% of work. I am trying to understand our level of responsibility for subcontractors performing work on our jobsites.

I appreciate any time and consideration you can provide for these questions.

**Question 1:** Are the violation repercussions equally applicable to our company if a subcontractor's employee is hurt while working?

**Answer:** It depends. OR-OSHA must establish that a recognizable hazard exists, the employer knows of the hazard or could have known through reasonable diligence, and that employees have exposure to the hazard. As a general contractor, you have a responsibility for oversight of the activities of the subcontractors you employ. I would refer you to [Division 3, Subdivision B, 1926.16 Rules of Construction](#). This section of the rules explains that the primary, or general contractor (whichever terminology is used) has a shared responsibility with subcontractors and both may be held equally responsible for conditions on a worksite. This is true regardless of any injury having occurred.

An example might be as follows: If the subcontractor is performing work that requires the use of fall protection and is not enforcing its use with their employees and an accident occurs, the subcontractor may be cited. If during the accident investigation it is determined that the prime contractor was aware, or through reasonable diligence, could/should have been aware of the infraction and has the authority to direct that corrective action be taken, the prime contractor may also receive a citation. Let's say the prime contractor's job trailer is in plain sight of the roof being worked on, observes the employees working without fall protection and makes no effort to correct the violation. The prime contractor could be issued a citation along with the subcontractor. Generally speaking, the prime contractor will not receive citation if they have no knowledge and did not create the hazardous condition.



**Question 2:** If a subcontractor's employee is injured on the job, goes to the hospital, is admitted for care and receives worker's compensation, are we also required to report this injury to OSHA? Or is it the responsibility of that subcontractor?

**Answer:** No. The employer, in this case the subcontractor, has the responsibility for reporting accidents. I would suggest, however, that if the general contractor is aware of the accident it would be a "best practice" to remind the subcontractor of reporting requirements and time frames for doing so.

**Question 3:** If a subcontractor is using a machine without proper safety equipment and a OSHA Compliance Inspector comes onto the jobsite, can we both receive fines or just the subcontractor?

**Answer:** Your third question has to do with subcontractors using unsafe equipment on your jobsite. Both the subcontractor and the general contractor may be cited if it is determined that there is knowledge of the violation by both parties.

Additional information and clarification may be obtained by accessing our website at [www.orosha.org](http://www.orosha.org). Click on Rules/ Compliance and access the Program Directive by Number link on the right side of your screen. Once there, go to PD A257 which speaks about Multi-Employer worksites.

It is also worth noting that statutes ORS 654.010, 654.015, and 654.022 all have language requiring employers to furnish safe places of employment. Not only are employers required to provide safe work places, every owner, employee and other person must obey and comply with the rules.

I hope we have answered your questions or provided you with resource information. If you need further assistance you can contact the Technical section at (503) 378-3272.